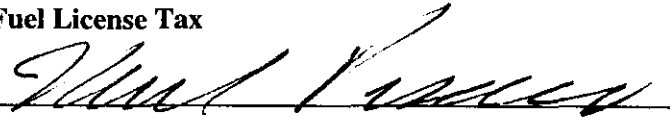


REPORT

DATE: May 1, 2003
TO: The Transportation and Communications Committee (TCC)
FROM: Tonya Gorham, Government Affairs Analyst
Phone (213) 236-1988 – e-mail: gorham@scag.ca.gov
SUBJECT: SB 541 (Torlakson) – Motor Vehicle Fuel License Tax

EXECUTIVE DIRECTOR'S APPROVAL



RECOMMENDED ACTION: Support

SUMMARY:

Introduced by Senator Torlakson (D-Antioch) February 20, 2003, SB 541 would index the state excise tax on gasoline and diesel fuel to the inflation rate. The bill also seeks to increase the tax rate further to backfill any revenue reductions to the Transportation Congestion Relief Fund or Transportation Investment Fund. SB 541 is consistent with SCAG's Adopted 2003 Legislative Program, which outlines Transportation Financing as a priority and directs legislative staff to develop and support legislative proposals to increase transportation funding through innovative financing concepts such as user fees and sales tax on motor vehicle fuels.

By indexing the state excise tax on gasoline and diesel fuel to the inflation rate, SB 541 helps bridge the revenue gap between Regional Transportation Plan projects and available revenues. SB 541 also comports with the 2001 RTP public funding strategy adopted by the Regional Council. One of the major elements of the strategy is to "adjust the state motor vehicle fuel excise tax rate and user fees to maintain historical purchasing power".

BACKGROUND:

Specifically, SB 541 requires that the 18-cents/gallon tax rate for both gasoline and diesel be adjusted in 2004 for inflation retroactive to September 1, 1990. The legislation prescribes the method of calculating the inflationary adjustment to the tax rates and requires the excise tax rate be further adjusted for inflation on an annual basis by the same formula and price index as those used for the retroactive adjustment for 2004.

In addition to the indexing for inflation, SB 541 requires the excise tax rate be adjusted annually to replace any gasoline sales tax revenues not transferred to the Transportation Investment Fund or the Traffic Congestion Relief Fund. It also makes a conforming change to provisions in law, which recalculate the state excise tax if the federal excise tax is reduced below a set rate.

SUPPORT:

The following agencies support SB 541:

- Associated General Contractors of California
- Associated General Contractors of San Diego

OPPOSE:

The following agencies oppose SB 541:

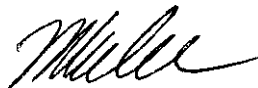
- California State Automobile Association
- Automobile Club of Southern California

BILL STATUS:

SB 541 was heard in Senate Transportation Committee on April 1, 2003 and failed passage by a vote of 3 to 4. The bill has been granted reconsideration with the next hearing date pending.

FISCAL IMPACT:

All work related to adopting the recommended staff action is contained within the adopted FY 02/03 budget and adopted 2003 SCAG Legislative Program and does not require the allocation of any additional financial resources.



T. Gorham
SB 541 Attachment
docs#84291

Introduced by Senator TorlaksonFebruary 20, 2003

An act to amend Sections 7360 and 7361 of, and to add Section 8651.1 to, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as introduced, Torlakson. Motor vehicle fuel license taxes: use fuel taxes.

Motor Vehicle Fuel License Tax Law imposes a tax of 18¢ per gallon of fuel, and requires, if the federal fuel tax is reduced below the rate of 9¢ per gallon and federal financial allocations to this state are reduced or eliminated, that the tax rate be increased so that the combined state and federal tax rate per gallon equals 27¢.

This bill would, for the 2004 calendar year and each calendar year thereafter, require that tax to be adjusted for inflation, as provided.

The Use Fuel Tax Law imposes an excise tax for the use of fuel at a rate of 18¢ per gallon on or after January 1, 1994, and requires, if the federal fuel tax is reduced below the rate of 15¢ per gallon and specified federal financial allocations to this state are reduced or eliminated, that the tax rate be increased by an amount so that the combined state and federal tax rate per gallon equals 33¢ per gallon on and after January 1, 1994.

This bill would impose an additional excise tax per gallon in the amount necessary to replace any suspended transfers of revenues to the Traffic Investment Fund or reductions from the Traffic Congestion Relief Fund. This bill would also make legislative findings and declarations in connection with that tax.

Existing law provides that a portion of the amounts collected under the Use Fuel Tax Law are continuously appropriated for expenditure for specified purposes.

Since this bill would permit an increase in the taxes collected under that law and thereby make additional moneys available for continuous expenditure, it would make an appropriation.

Section 3 of Article XIII A of the California Constitution requires that any change in state taxes enacted for the purpose of increasing revenues be imposed by a statute that is passed by not less than $\frac{2}{3}$ of the members of each house of the Legislature.

Since this bill would permit an increase in state fuel taxes, this bill would require a $\frac{2}{3}$ vote for passage.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7360 of the Revenue and Taxation Code
2 is amended to read:

3 7360. (a) A tax of eighteen cents (\$0.18) is hereby imposed
4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
5 and 7364. *This rate of tax shall be adjusted as follows:*

6 (1) *For the 2004 calendar year, the board shall recompute the*
7 *rate of tax set forth in subdivision (a). That computation shall be*
8 *made as follows:*

9 (A) *The Department of Industrial Relations shall transmit to*
10 *the board the percentage change in the California Consumer Price*
11 *Index for all items from September 1, 1990, to September 1, 2003,*
12 *inclusive, no later than November 1, 2003.*

13 (B) *The board shall compute an inflation adjustment factor by*
14 *adding 100 percent to that portion of the percentage change figure*
15 *which is furnished pursuant to subparagraph (A) and dividing the*
16 *result by 100.*

17 (C) *The board shall multiply the estimated rate of tax in*
18 *subdivision (a) by the inflation adjustment factor determined in*
19 *subparagraph (B) and round off the resulting products to the*
20 *nearest one-tenth of one cent (\$0.001) per gallon.*

1 (2) *For the 2005 calendar year and each calendar year*
2 *thereafter, the board shall recompute the rate of tax set forth in*
3 *subdivision (a). That computation shall be made as follows:*

4 (A) *The Department of Industrial Relations shall transmit*
5 *annually to the board the percentage change in the California*
6 *Consumer Price Index for all items from September 1 of the prior*
7 *fiscal year to September 1 of the current fiscal year, no later than*
8 *November 1 of the current fiscal year.*

9 (B) *The board shall compute an inflation adjustment factor by*
10 *adding 100 percent to that portion of the percentage change figure*
11 *which is furnished pursuant to subparagraph (A) and dividing the*
12 *result by 100.*

13 (C) *The board shall multiply the estimated rate of tax in*
14 *subdivision (a) by the inflation adjustment factor determined in*
15 *subparagraph (B) and round off the resulting products to the*
16 *nearest one-tenth of one cent (\$0.001) per gallon.*

17 (b) *If the federal fuel tax is reduced below the rate of nine cents*
18 *(\$0.09) per gallon and federal financial allocations to this state for*
19 *highway and exclusive public mass transit guideway purposes are*
20 *reduced or eliminated correspondingly, the tax rate imposed by*
21 *this section, on and after the date of the reduction, shall be*
22 *recalculated by an amount so that the combined state and federal*
23 *tax rate per gallon equals ~~twenty-seven cents (\$0.27)~~ nine cents*
24 *(\$0.09) plus the amount calculated pursuant to subdivision (a).*

25 (c) *If any person or entity is exempt or partially exempt from*
26 *the federal fuel tax at the time of a reduction, the person or entity*
27 *shall continue to be so exempt under this section.*

28 SEC. 2. *Section 7361 of the Revenue and Taxation Code is*
29 *amended to read:*

30 7361. (a) *For the privilege of storing, for the purpose of*
31 *removal, sale, or use, every distributor owning motor vehicle fuel*
32 *on January 1, 2002, shall pay a tax of eighteen cents (\$0.18) for*
33 *each gallon of motor vehicle fuel according to the volumetric*
34 *measure thereof, on which a tax has not been imposed under Part*
35 *2 (commencing with Section 7301) as in effect on December 31,*
36 *2001, and tax would have been imposed on any prior removal,*
37 *entry, or sale of motor vehicle fuel had Sections 7360 to 7363,*
38 *inclusive, applied to motor vehicle fuel for the period before*
39 *January 1, 2002. This rate of tax shall be adjusted as follows:*

1 (1) For the 2004 calendar year, the board shall recompute the
2 rate of tax set forth in subdivision (a). That computation shall be
3 made as follows:

4 (A) The Department of Industrial Relations shall transmit to
5 the board the percentage change in the California Consumer Price
6 Index for all items from September 1, 1990, to September 1, 2003,
7 inclusive, no later than November 1, 2003.

8 (B) The board shall compute an inflation adjustment factor by
9 adding 100 percent to that portion of the percentage change figure
10 which is furnished pursuant to subparagraph (A) and dividing the
11 result by 100.

12 (C) The board shall multiply the estimated rate of tax in
13 subdivision (a) by the inflation adjustment factor determined in
14 subparagraph (B) and round off the resulting products to the
15 nearest one-tenth of one cent (\$0.001) per gallon.

16 (2) For the 2005 calendar year and each calendar year
17 thereafter, the board shall recompute the rate of tax set forth in
18 subdivision (a). That computation shall be made as follows:

19 (A) The Department of Industrial Relations shall transmit
20 annually to the board the percentage change in the California
21 Consumer Price Index for all items from September 1 of the prior
22 fiscal year to September 1 of the current fiscal year, no later than
23 November 1 of the current fiscal year.

24 (B) The board shall compute an inflation adjustment factor by
25 adding 100 percent to that portion of the percentage change figure
26 which is furnished pursuant to subparagraph (A) and dividing the
27 result by 100.

28 (C) The board shall multiply the estimated rate of tax in
29 subdivision (a) by the inflation adjustment factor determined in
30 subparagraph (B) and round off the resulting products to the
31 nearest one-tenth of one cent (\$0.001) per gallon.

32 (b) For purposes of subdivision (a):

33 (1) "Storing" includes the possession in a storage facility,
34 except an approved terminal or refinery, of motor vehicle fuel as
35 well as the motor vehicle fuel purchased from and invoiced by the
36 seller prior to January 1, 2002, and in transit on that date.

37 (2) "Owning" means having title to the motor vehicle fuel.

38 (3) "Distributor" means any person who was required to be
39 licensed as a distributor under Part 2 (commencing with Section
40 7301) as in effect on December 31, 2001.

1 SEC. 3. Section 8651.1 is added to the Revenue and Taxation
2 Code, to read:

3 8651.1. (a) The Legislature finds and declares all of the
4 following:

5 (1) The excise tax on motor vehicle fuel was last increased on
6 January 1, 1994, when the rate was set at eighteen cents (\$0.18) per
7 gallon.

8 (2) The demand on California's state highways and streets and
9 local roads has increased at a far greater rate than the revenues
10 available to operate, maintain, and expand the transportation
11 network.

12 (3) Increased motor vehicle fuel economy results in the
13 consumption of less fuel and the generation of less gas tax revenue
14 per mile driven, while inflation also erodes this slow-growing
15 revenue.

16 (4) The Traffic Congestion Relief Act (Chapters 91, 92, and
17 656 of the Statutes of 2000) (TCRA) created a six-year funding
18 plan using General Fund revenue for state and local transportation
19 needs.

20 (5) The TCRA created the Traffic Congestion Relief Fund
21 (TCRF) to support high-priority traffic-relief projects statewide,
22 and the Transportation Investment Fund (TIF) to distribute
23 funding for local street and road improvements, state highway
24 improvements, and public transit.

25 (6) Rapid declines in state General Fund revenues have led to,
26 and could create more, suspending of transfers of gasoline sales tax
27 revenue to the TIF and revenue reductions in the TCRF.

28 (b) In addition to any other tax imposed by this part, an excise
29 tax is hereby imposed for the use of fuel at the following rate per
30 gallon:

31 An amount, adjusted annually for inflation, to replace any
32 revenues suspended from transfer to the Transportation
33 Investment Fund or reduced from the Traffic Congestion Relief
34 Fund.

35 SEC. 4. This act provides for a tax levy within the meaning of
36 Article IV of the Constitution and shall go into immediate effect.

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